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**From:** Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Sent:** 5/13/2020 3:02:07 PM  
**To:** Wehling, Carrie [Wehling.Carrie@epa.gov]  
**CC:** Siegal, Tod [Siegal.Tod@epa.gov]; Wade, Alexis [Wade.Alexis@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]  
**Subject:** RE: NHPA consultation issue in Florida

Will do. Thanks.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Wehling, Carrie <Wehling.Carrie@epa.gov>  
**Sent:** Wednesday, May 13, 2020 11:01 AM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Cc:** Siegal, Tod <Siegal.Tod@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>  
**Subject:** RE: NHPA consultation issue in Florida

Yes, please add to the reg agenda for tomorrow. Copying Steve for his awareness.

Caroline (Carrie) Wehling  
Assistant General Counsel  
Water Law Office  
U.S. Environmental Protection Agency  
Washington DC 20004  
202-564-5492  
[wehling.carrie@epa.gov](mailto:wehling.carrie@epa.gov)

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**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Wednesday, May 13, 2020 10:59 AM  
**To:** Wehling, Carrie <Wehling.Carrie@epa.gov>  
**Cc:** Siegal, Tod <Siegal.Tod@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>  
**Subject:** NHPA consultation issue in Florida

Attorney-client privileged/Attorney work product privileged.

Hi Carrie,

I would like to raise the question of NHPA consultation on our Florida package at Reg Review tomorrow, if that's not a problem.

Florida has received a comment on its rule from the Seminole Tribe stating that if EPA has discretion to consult for ESA purposes on its program approval, it also has discretion to consult under the NHPA. Tod and I just had a call with R4 ORC staff, where Tod provided very helpful input (as always) which

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Please let me know what you think. Thank you!

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